



Entered on Docket
September 02, 2009

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE COMPANY,

USA CAPITAL REALTY ADVISORS, LLC,¹

USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,

USA CAPITAL FIRST TRUST DEED FUND, LLC,²

USA SECURITIES, LLC,³

Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under
Case No. BK-S-06-10725 LBR

**ORDER SUSTAINING TWELFTH
OMNIBUS OBJECTION OF USACM
TRUST TO PROOFS OF CLAIM BASED,
IN WHOLE OR IN PART, UPON
INVESTMENT IN THE BAY POMPANO
BEACH LOAN**

Hearing Date: August 21, 2009
Hearing Time: 9:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 The Court having considered the “Twelfth Omnibus Objection of USACM Trust to
2 Proofs of Claim Based, in Whole or in Part, Upon Investment in the Bay Pompano Beach
3 Loan” [Docket No. 7289] (the “Objection”); with appropriate notice of the Objection
4 having been given; no responses having been filed; and good cause appearing:

5 **IT IS HEREBY ORDERED** that:

- 6 1. The Objection is sustained;
- 7 2. The claims listed on **Exhibit A** attached are allowed as general
8 unsecured claims for the amount shown on **Exhibit A** as Unremitted
9 Principal. The remainder of those claims are disallowed to the extent
10 they are based upon a Direct Lender investment in the Bay Pompano
11 Beach Loan as shown on **Exhibit A**; and
- 12 3. To the extent the claims listed on **Exhibit A** are based upon
13 investments in loans other than the Bay Pompano Beach Loan, this
14 order does not affect them and the USACM Trust may file further
15 objections.

16
17 PREPARED AND RESPECTFULLY SUBMITTED BY:

18 **LEWIS AND ROCA LLP**

19 By /s/ Marvin Ruth (#10979)

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In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of LR 9021.
- ☐ No parties appeared or filed written objections, and there is no trustee appointed in this case.
- ☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below (list each party and whether the party has approved, disapproved, or failed to respond to the document):

U.S. Trustee: August Landis	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input checked="" type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document
Other Party:	
<input type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document

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Submitted by:

LEWIS AND ROCA LLP

By: /s/ Marvin Ruth (#10979)
 Rob Charles
 John Hinderaker
 Marvin Ruth
Attorneys for USACM Liquidating Trust

Claim	Name	Address	Total Claim Amount	Total Claim Amount Relating to Bay Pompano Beach Loan	Unremitted Principal to be Allowed as Claim	Approximate Amount Subject to Objection
10725-01959	Osherow Trust DTD 9/11/89	Aaron Osherow Trustee 200 S Brentwood Blvd #9D St Louis, MO 63105	1,088,466.02	75,464.72	12,285.97	63,178.75
10725-01973	Charles Henry Small Revocable Living Trust	Charles H Small Ttee 12754 Joleane Ave Yuma, AZ 85367-6490	272,896.04	75,464.72	12,285.97	63,178.75
10725-01994	Gilbert Jr, Elmer Eugene	81590 Chenel Rd Folsom, LA 70437-5414	455,240.56	75,464.72	12,285.97	63,178.75
10725-01996	Stark Family Trust DTD 4/2/84	Rosalind L Stark Ttee 10905 Clarion Ln Las Vegas, NV 89134	198,268.14	75,464.72	12,285.97	63,178.75
10725-02126	Johnson, Ronald A & Marilyn	50 Snider Way Sparks, NV 89431-6308	304,200.00	100,000.00	12,285.97	87,714.03
10725-02130	Arbogast, Suzanne L	1005 W Buffington St Upland, CA 91784	459,589.58	75,464.72	12,285.97	63,178.75
10725-02160	Ayers, C Donald	Po Box 1769 Mammoth Lakes, CA 93546	130,313.62	35,228.02	12,285.97	22,942.05
10725-02201	Duberg, John H	4455 Vista Coronado Dr Chula Vista, CA 91910-3234	87,877.81	36,923.14	12,285.97	24,637.17
10725-02282	Elan Reddell Revocable Trust DTD 8/4/03	Elan Reddell Trustee 6770 Hawaii Kai Dr #1006 Honolulu, HI 96825	659,407.30	75,464.72	12,285.97	63,178.75
10725-02333	Davis Investments	20 Leroy Terrace New Haven, CT 06512	2,000,000.00	45,884.10	12,285.97	33,598.13

EXHIBIT A